

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

MONDAY, THE 25TH JUNE 2007 / 4TH ASHADHA 1929

WP(C).No. 27841 of 2004(M)

PETITIONER:

1. P.G.BHANUMATHY, MANAGER,
THEKKUMMURI HIGH SCHOOL, PUTHENCHIRA,
THRISSUR DISTRICT.
2. M.R.SUNIL BABU, HIGH SCHOOL ASSISTANT
(SOCIAL STUDIES), THEKKUMMURI HIGH SCHOOL,
PUTHENCHIRA, THRISSUR DISTRICT.

BY ADV. SRI.N.N.SUGUNAPALAN
SRI.S.SUJIN

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY
THE CHIEF SECRETARY, GOVT. OF KERALA,
GOVT.SECRETARIAT, THIRUVANANTHAPURAM.
2. DIRECTOR OF PUBLIC INSTRUCTION,
THIRUVANANTHAPURAM.
3. DISTRICT EDUCATIONAL OFFICER,
IRINJALAKUDA.

BY GOVERNMENT PLEADER SRI. A.J. VARGHESE

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 25/06/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

- EXT.P1. COPY OF THE COMMON JUDGMENT OF THIS HON'BLE COURT IN WA NOS. 1302/99 & 1304/99
- EXT.P2. COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN RP NO. 296/00 DT. 13.7.00
- EXT.P3. COPY OF THE REVERSION ORDER DT. 12.6.03 ISSUED BY THE 3RD RESPONDENT
- EXT.P4. COPY OF THE ORDER DT. 23.3.02 ISSUED BY THE 1ST PETITIONER APPOINTING THE 2ND PETITIONER AS H.S.A. w.e.f. 1.6.99
- EXT.P5. COPY OF THE APPLICATION FOR CONDONATION OF DELAY FILED BY THE PETITIONERS BEFORE THE 3RD RESPONDENT DT. 19.8.03
- EXT.P6. COPY OF THE INSTRUCTIONS RECEIVED FROM THE OFFICE OF THE 3RD RESPONDENT DT. 2.8.03 FOR GETTING CONDONATION OF THE DELAY
- EXT.P7. COPY OF THE ORDER DT. 10.3.04 ISSUED BY THE 2ND RESPONDENT
- EXT.P8. COPY OF THE REVISION PETITION DT. 23.3.04 SUBMITTED BY THE 1ST PETITIONER BEFORE THE 2ND RESPONDENT
- EXT.P9. COPY OF THE ORDER ISSUED BY THE GOVERNMENT ON 8.6.04 REJECTING EXT.P7 REVISION
- EXT.P10. COPY OF ORDER NO.B2-10721/2000 DT. 28.2.01
- EXT.P11. COPY OF JUDGMENT DT. 9.10.01 IN O.P. NO.933/2001 OF THIS HON'BLE COURT
- EXT.P12. COPY OF JUDGMENT DT. 9.4.03 IN O.P. NO.18164/01 OF THIS HON'BLE COURT
- EXT.P13. COPY OF THE PROCEEDINGS OF THE 3RD RESPONDENT DT. 31.10.06.

/TRUE COPY/

PA TO JUDGE.

A.K. BASHEER, J.

W.P.(C). NO. 27841 OF 2004

Dated this the 25th day of June, 2007

J U D G M E N T

Petitioners are the Manager of an aided school and the Teacher working in the said institution, respectively.

2. Grievance of the petitioners appears to be that approval of appointment of petitioner No.2 as HSA with effect from June 1, 1999, has been declined on the ground that they had not properly explained the delay in filling up the vacancy.

3. It is the admitted position that petitioner was appointed as HSA with retrospective effect from June 1, 1999. The said order of appointment was issued in the year 2003 after Exts. P1 & P2 orders were issued by this Court. But the departmental authorities found that there was no justification on the part of the Manager to keep the post vacant for four years. This according to the Department, was purposefully done by the Manager to accommodate petitioner No.2. According to the manager, he had properly explained the delay. However, the Director thought otherwise. The said view taken by the Director was confirmed by the Government in Ext.P9 order. It is

contended by learned counsel for the petitioners that the Government did not afford them an opportunity to be heard before the above decision was taken in the matter. A perusal of Ext.P9 order shows that there is some force in the above contention.

In the above facts and circumstances, Ext.P9 order is quashed. The Government is directed to take a fresh decision in the matter strictly on its merit and in accordance with law, as expeditiously as possible, at any rate within three months from the date of receipt of a copy of this judgment. Needless to mention that the petitioners shall be afforded sufficient opportunity to be heard before any decision is taken.

The writ petition is disposed of as above.

A.K. BASHEER, JUDGE

vps

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OP NO.20954/00

JUDGMENT

1ST MARCH, 2007